

## Quick summary of the role of transboundary treaties in water conflict on the international Rio Grande

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Large scale drying of the Rio Grande around the Paso del Norte section (southern NM, western Texas) in the late 1800s led to the "Convention between the United States and Mexico; Equitable Distribution of the Waters of the Rio Grande" signed in May, 1906. In Article 1 of that convention the U.S. agreed to construct what became known as Elephant Butte Reservoir and to deliver from that reservoir to Mexico (with the actual diversion at what was then the "Mexican Canal", and which is now the International Dam just upstream of El Paso/Juarez) a total of 60,000 acre feet per year (af/y). Article 2 states that those deliveries would be made following the same temporal pattern throughout the year as deliveries made for irrigation of U.S. ag lands in the same region. Article 3 states that in the event of "extraordinary drought or serious accident to the irrigation system in the United States, the amount delivered to the Mexican Canal shall be diminished in the same proportion as the water delivered to lands under said irrigation system in the United States." The Rio Grande Compact of 1938 ended up stipulating that the amount of water sent downstream from EB to U.S. ag lands (including those in NM) and to Mexico would equal 790,000 af/y, with an allowable debit not to exceed 200,000 af/y.

*By what rationale was the Mexican allotment of Rio Grande waters (60,000/790,000) so small? How has this impacted Mexican ag and urban development? Has there been any effort to change the allotment? Do the Mexican's resent this situation?*

The "Treaty Between the United States of America and Mexico" signed in 1944 (and dealing with waters of the Rio Grande, the Colorado and the Tijuana River) stipulated that the U.S. had the right to consume all the water flowing into the Rio Grande from tributaries on the U.S. side. This treaty also stipulated that the U.S. had the right to consume a third of the water flowing into the Rio Grande from six tributaries on the Mexican side (including the Rio Conchos), with a total minimum delivery over five-year cycles set at 1.75 million acre feet (maf), or 350,000 af/y.

An inability on the part of Mexico to complete these deliveries is addressed in Article 4: "In the event of extraordinary drought or serious accident to the hydraulic systems on the measured tributaries . . . any deficiencies existing at the end of the aforesaid five-year cycle shall be made up in the following five-year cycle . . . ."

Mexico did not succeed in meeting its treaty obligations during either the 1992-1997 or the 1997-2002 five-year cycles. The 1992-1997 cycle concluded with a

deficit of 1.024 million acre-feet, and the 1997-2002 cycle concluded with a deficit of approximately 1.5 maf.

Several legally-binding “Minutes” to the treaty have been generated in an effort to address Mexican debts (specifically, Minute Nos. 234, 307 and 308). However, there is still controversy over how Mexico can roll debts from one five-year cycle to the next. The US and Mexican governments currently disagree over the exact quantity of the Mexican debt. Some influential US sources say Mexico has had the ability to deliver the water but has chosen not to, in favor of its own agricultural and economic interests.

*Is Mexico rebelling against what it sees as inequitable treaty requirements? Should the 1944 treaty be amended to allow Mexico to keep more of its native water? How do treaty obligations in other parts of the world contribute to conflict over water and perceptions of water scarcity?*